



**DEVELOPMENT
ASSESSMENT
POLICY
P2.0257.2**

DEVELOPMENT ASSESSMENT POLICY

DIVISION: Planning and Environment

BRANCH: Statutory Planning

CATEGORY: 3

PART 1 - INTRODUCTION

1. BACKGROUND

- 1.1 A development application (DA) is a formal application for development that requires assessment under the NSW *Environmental Planning and Assessment Act 1979* (“the Act”).
- 1.2 Applications to modify a development consent and applications to review the determination of a DA are subject to the same requirements as DAs as described in this policy.
- 1.3 Prior to lodging a DA, Council encourages applicants to seek formal pre-DA advice for some types of development. The aim of the pre-DA process is to discuss development concepts with Council’s experienced assessment planners to obtain guidance on the key considerations related to the development prior to lodging a DA.
- 1.4 The principal purpose of this policy is to identify Council’s expectations and provide transparency in the development assessment process.

2. OBJECTIVE

- 2.1 The objectives of this Policy are to:
 - Communicate Council’s expectations of the development assessment process to potential applicants.
 - Provide greater transparency about the process of lodging and assessing DAs and pre-DA advice applications.
 - Support continuous improvement and enhance the effectiveness and efficiency of the development assessment process.
 - To increase collaboration between Council and applicants to produce better built form outcomes.

3. SCOPE

- 3.1 This policy applies to all DAs and pre-DAs lodged with Council.

4. DEFINITIONS

- 4.1 **DA** means development application.
- 4.2 **Pre-DA** means pre-development application advice.
- 4.3 **Act** means the *Environmental Planning and Assessment Act 1979*.
- 4.4 **CIV** means capital investment value.
- 4.5 **DPE** means Department of Planning and Environment.
- 4.6 **DRP** means Design Review Panel.
- 4.7 **CLPP** means Camden Local Planning Panel.
- 4.8 **SWCPP** means Sydney Western City Planning Panel.
- 4.9 **L&E Court** means the Land and Environment Court of NSW.

PART 2 - POLICY STATEMENT

5. Pre-Lodgement

Council offers a number of services aimed at ensuring the lodgement of 'assessment ready' DAs that respond to policy and compliance requirements, including:

5.1 **Duty Officer Enquiries** – Skilled professional planners are available to customers during business hours (Monday to Friday between 8.30am to 5.00pm) to respond to queries and provide general advice regarding development assessment matters before DAs are lodged. This is a free service that aims to:

- Provide general information about the DA process
- Provide information about whether a DA is required or if development may be carried out as an exempt or complying development
- Review DAs at the time of lodgement to ensure the applications include the relevant information required to be 'assessment ready'
- Direct customers to the relevant planning policies and/or provide general advice on any such policies.

5.2 **Formal Pre-DA Advice** – Council offers formal pre-DA advice for all forms of development. Formal pre-DA advice is strongly encouraged for the following types of developments:

- Large subdivisions, residential flat buildings, multi-dwelling housing, significant commercial developments including shopping centres and complex industrial developments
- Developments that will be determined by the SWCPP
- Developments with a capital investment value of more than \$2 million

- Complex developments including those on environmentally constrained sites (such as heritage items or sites in heritage conservation areas, sites affected by flooding or sites that contain significant vegetation, etc)
- Developments that could involve significant planning control variations.

6. Formal Pre-DA Advice

- 6.1 Formal Pre-DA advice enables applicants to discuss development concepts with Council's experienced assessment planners and receive guidance on the key considerations related to the development.

Pre-DA Lodgement Requirements/Timeframes

- 6.2 Concept plans must be provided with an application for formal pre-DA advice. Once lodged, Council staff will contact the applicant to arrange a suitable meeting time. For more minor development types (such as new dwelling houses), where the applicant does not consider that a meeting is warranted, the applicant can seek written advice only. The application will also be referred to other relevant specialists within Council, such as engineers and heritage advisors, to ensure comprehensive advice is provided.
- 6.3 Pre-DA meetings will be arranged within 14 days of lodgement and written advice will be issued by the relevant planning officer subsequent to, and within 14 days of, the meeting.

DRP

- 6.4 Residential accommodation and commercial developments that are three or more storeys in height and other developments requiring advanced urban design assessment will typically be referred to Council's DRP. The purpose of the DRP is to provide expert and independent advice on design quality during the pre-DA advice stage. The referral of matters to the DRP will require additional time, however is likely to result in significant cost and time savings for the assessment of any subsequent DA.

Fees

- 6.5 There is a fee associated with most formal pre-DA advice services however there are no fees applicable for minor types of development (such as new dwelling houses). There are also no fees associated with Council's Duty Officer Enquiry Service.

Nature and Limitations of Pre-DA Advice

- 6.6 The aim of the pre-DA process is to provide detailed advice on all aspects of a development proposal to ensure the key development assessment matters have been discussed/addressed and the DA is 'assessment ready' when lodged. Notwithstanding the pre-DA process, additional issues may arise post-lodgement that were not detailed in the pre-DA advice. Any such issues may require the development to be modified and/or additional information to be provided. Council may also determine that the development cannot be supported on the site.

- 6.7 Unlike pre-DAs, DAs are generally notified and/or advertised to adjoining property owners and the public. Any issues identified in submissions received from the public may need to be addressed by the applicant and considered by Council staff as part of the DA assessment process.
- 6.8 Furthermore, many developments require approval from State government agencies such as the Department of Planning and Environment Water and the NSW Rural Fire Service. Council staff cannot provide specific details on the requirements of these agencies. The applicant is responsible for contacting any agencies for advice before lodging a DA.

7. Lodgement

DAs must be submitted online via DPE's Planning Portal. Applications submitted via the Planning Portal must contain the documentation required by Council's lodgement matrices. Once submitted the application will be checked by Council staff to ensure it is complete. If the application is incomplete, it will be returned to the applicant through the Planning Portal with details of what is missing. If the application is complete, it will be accepted for lodgement and Council's Customer Relations Team will contact the applicant to arrange payment of the application fees.

8. Post Lodgement

- 8.1 Once lodged, a DA will be assigned to a dedicated planning officer.
- 8.2 If additional information or amendments are required for further assessment of a DA, the applicant will generally be given 14 days to provide the information to Council. If the information is not provided within 14 days, the applicant may be given an additional seven days. The applicant will be sent a reminder letter, e-mail or message through the Planning Portal granting a further seven days to submit the required information, advising that the applicant risks refusal of the application if the information is not submitted.
- 8.3 In circumstances where significant additional information or amendments are required for larger and more complex proposals (e.g. geotechnical or traffic reports, etc.), applicants will generally be given 28 days to provide the information to Council. If the information is not provided within 28 days, the applicant may be given an additional 14 days. The applicant will be sent a reminder letter, e-mail or message through the Planning Portal granting a further 14 days to submit the required information, advising that the applicant risks refusal of the application if the information is not submitted.
- 8.4 If at the end of these periods, if the required information has not been received by Council the DA may be refused due to a lack of information or the required amendments.
- 8.5 The above potential requests for additional information are at the discretion of Council. Council is under no obligation to request additional information. Additional information or amended plans can only be lodged with the agreement of Council. DAs that Council deems to be unsuitable may be determined by way of refusal based on the information initially submitted with the DA. Applicants may be provided the opportunity to withdraw unsuitable DAs prior to Council making a determination.

9. Determination

- 9.1 Due to changes implemented by the NSW State Government, mandatory local planning panels have been established for all Sydney councils, Wollongong City Council and Central Coast Council. With these changes, DAs for local development are now determined by either Council staff or a local planning panel and Councillors are no longer involved in the determination of DAs.
- 9.2 There are a number of factors that can influence who the relevant determining authority is for a DA, including but not limited to the:
- Type/form of development
 - Capital investment value
 - Number of submissions received
 - Contravention of development standards.
- 9.3 A DA lodged with Council may be determined by any of the following authorities:
- **By Senior Planning Staff Under Delegated Authority** – The majority of DAs lodged with Council (over 95%) are determined by Council staff.
 - **Camden Local Planning Panel** – The CLPP is a panel of three independent expert members and a community member who determine DAs where there may be a potential conflict of interest, contentious development (subject to 10 or more unique public submissions by way of objection), development that contravenes a development standard by more than 10% or certain forms of development that are viewed as sensitive (such as residential flat buildings, new licensed premises and sex services premises).
 - **Sydney Western City Planning Panel** – The SWCPP is a panel consisting of five members, with three of the members (including the Chair) appointed by the Minister for Planning and two members nominated by Council. The SWCPP is responsible for determining regionally significant development. Regionally significant development is generally development that has a CIV over \$30 million, although for some forms of the development the threshold is as low as \$5 million.

10. Post Determination Options

- 10.1 **Modification of Development Consent** – After the determination of a DA, applicants that have obtained an approval have the opportunity to submit an application to modify that development consent under sections 4.55 (for approvals issued by Council) and 4.56 (for approvals issued by L&E Court) of the Act. If an applicant wishes to vary the approved plans or the conditions imposed on a development consent they should discuss with the relevant planning officer prior to lodging a modification application.
- 10.2 **Review of Determination** – After a DA has been determined, the applicant has the opportunity to seek a review of that determination under Division 8.2 of the Act. The review may relate to certain aspects of an approval (such as conditions of consent) or the refusal of a DA. Applicants should discuss with the relevant planning officer prior to lodging a review application.

- 10.3 If the review relates to a refusal of a DA, it will be determined by another planning officer who is not subordinate to the officer who determined the original DA. A review of the determination must be completed within six months of the determination of the original DA. Accordingly, applicants need to ensure they submit their application for review in a timely manner to ensure Council staff have sufficient time to complete the review (ideally, no less than three months should be provided to conduct a review).
- 10.4 **L&E Court** – Where a DA is refused, the applicant has a right to appeal to the L&E Court under sections 8.7 and 8.9 of the Act. In accordance with section 8.10 of the Act, the right to appeal is only available within six months after the date the decision appealed against is notified or registered on the Planning Portal or after the date of deemed refusal under section 8.11 of the Act. Refusal is deemed when Council does not determine an application within the period prescribed by the *Environmental Planning and Assessment Regulation 2021*.

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RELEVANT LEGISLATIVE INSTRUMENTS: *Environmental Planning and Assessment Act 1979*
Environmental Planning and Assessment Regulation 2021

RELATED POLICIES, PLANS AND PROCEDURES: Nil

RESPONSIBLE DIRECTOR: Planning and Environment

APPROVAL: General Manager through the Executive Leadership Group

HISTORY:

Version	Approved by	Changes made	Date	EDMS Number
1	ELG	New	14/11/2019	19/350146
2	ELG	Statutory and process updates	09/02/2023	19/350146